

IN THE UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON

Eve Nevada, LLC and Voltage Holdings, LLC	)	Case No.: 2:21-cv-251
)	
Plaintiffs,	)	SECOND AMENDED COMPLAINT;
vs.	)	EXHIBIT 1-2; DECLARATION OF
	)	EMILY MORGAN; DEMAND FOR
	)	JURY TRIAL
Michelle Derbyshire (formerly Doe aka fbkf@sroff.com),)	
	)	(1) DIRECT COPYRIGHT
	)	INFRINGEMENT
Defendant.	)	(2) CONTRIBUTORY
	)	COPYRIGHT
	)	INFRINGEMENT
	)	(3) DMCA VIOLATIONS
)	

SECOND AMENDED COMPLAINT

Plaintiff Eve Nevada, LLC and Voltage Holdings, LLC (“Plaintiffs”), by and through their counsel, brings this Second Amended Complaint against Defendant Michelle Derbyshire (formerly Doe aka fbkf@sroff.com) (“Defendant”) and alleges as follows:

I. NATURE OF THE ACTION

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101, et seq. (the “Copyright Act”).

2. The Plaintiffs allege that Defendant is liable for: (1) direct and contributory copyright infringement in violation of 17 U.S.C. §§ 106 and 501; (2) violations under the Digital Millennium Copyright Act, 17 U.S.C. §§ 1202.

II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 17 U.S.C. §§ 101, et. seq., (the Copyright Act), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (patents, copyrights, trademarks, and unfair competition) and 28 U.S.C. § 1367 (supplemental jurisdiction).

4. Defendant resides in, solicits, transacts, or is doing business within this jurisdiction, and has committed unlawful and tortious acts both within and outside this jurisdiction with the full knowledge that her acts would cause injury in this jurisdiction. As such, Defendant has sufficient contacts with this judicial district to permit the Court's exercise of personal jurisdiction over her.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) - (c) because: (a) all or a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (b) the Defendant resides or resided, and therefore can or could be found, in this State. Additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases), because the Defendant or Defendant's agents resides and can be found in this District.

6. As discussed in detail below, Defendant has accessed the Internet repeatedly from Internet Protocol addresses in this District (as recently as February 1, 2021) to make racist remarks about an African American attorney for rightsholders (referring to him as a "Negro"), proclaim her support for movie piracy ("itsfun2steal") and engage in wide scale piracy.

III. PARTIES

A. The Plaintiffs

7. Plaintiff Eve Nevada, LLC is a limited liability company registered under the laws

1 of the State of Nevada, has principal offices in Los Angeles, California and is an affiliate of
2 Voltage Pictures, a production company with a notable catalog of major award-winning motion
3 pictures such as *Wind River*, *The Murder of Nicole Brown Simpson* and *The Hurt Locker*.

4 8. Plaintiff Voltage Holdings, LLC is a Nevada limited liability company with its
5 principal place of business at 116 N. Robertson Blvd, Suite 200, Los Angeles, CA 90048
6

7 9. Plaintiffs are the owner of the Work *Ava* featuring Jessica Chastain, Colin Farrell,
8 John Malkovich and Common, which tells the story of a deadly assassin specializing in high
9 profile hits who is forced to fight for her own survival when a job goes wrong.

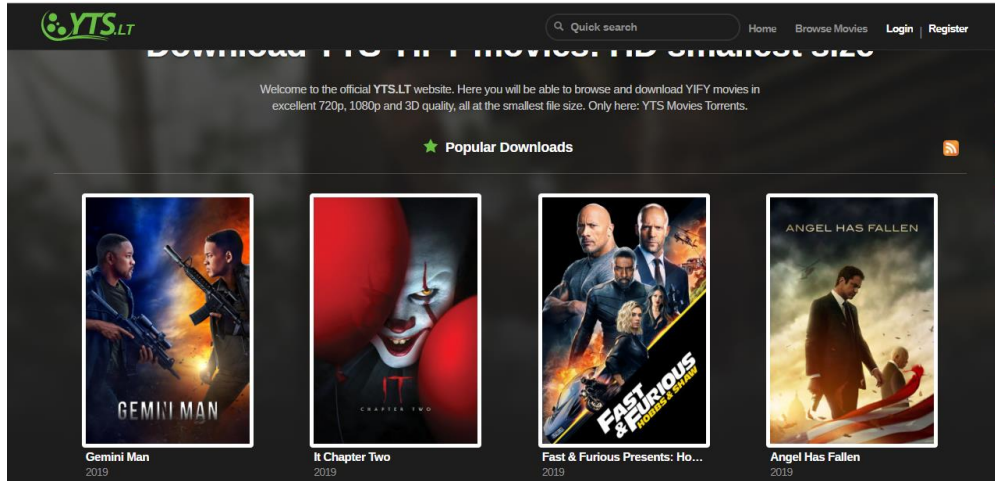
10 **B. The Defendant**

11 10. Previously identified as Defendant Doe aka fbkf@sroff.com, Defendant Michelle
12 Derbyshire is an adult individual residing in Vancouver, Washington.

13 11. Defendant is an admitted and proud user of the notorious piracy website referred
14 to as YTS or YIFY (“YTS website”).
15

16 12. The YTS website is currently accessible at YTS.MX and was previously accessible
17 at YTS.AM, YTS.AG and YTS.LT.
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19 13. The YTS website is known for distributing torrent files of copyright protected
20 motion pictures.
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14. Defendant has been assigned Internet Protocol (“IP”) address 71.193.144.236 from her Internet Service Provider (“ISP”) Comcast.

15. Public information shows that IP address 71.193.144.236 is in Vancouver, Washington.

16. Plaintiffs were granted early discovery to request identifying information from Comcast regarding the owner of IP address 71.193.144.236, which was identified as Michelle Derbyshire of Vancouver, WA.

17. Defendant previously accessed the Internet from IP address 68.186.24.19 assigned by the ISP Charter.

18. On Sept. 22, 2020, Defendant used the Harry S Cornhole username to state “Blacks have always been an interesting breed” from IP address 68.186.24.19.

19. Public information shows that IP address 68.186.24.19 is in Lincoln, Oregon.

20. Plaintiffs were granted early discovery to request identifying information from Charter Communications, Inc. regarding the owner of IP address 68.186.24.19, which was identified as William Holt.

21. William Holt is the owner of a stand-alone vacation rental home located in Lincoln,

1 Oregon, which is operated by the management company Meredith Management.

2 22. On 9/22/2020, the same day that “Harry S Cornhole” commented from IP address
3 68.186.24.19, William Holt and Meredith Management confirmed that the vacation rental home
4 was rented by Michelle Derbyshire. *See* Decl. of Emily Morgan.

5 23. Defendant uses one or more Virtual Private Network (“VPN”) services to try to
6 conceal her illicit activities.
7

8 24. A VPN is a type of Internet Service that provides access to the Internet. A
9 conventional ISP such as Charter or Comcast will assign its subscriber an IP address and log the
10 subscriber’s activities on the Internet while using the assigned IP address. In comparison, many
11 VPN providers provide their subscribers “anonymous” usage by, for example, not logging
12 subscriber access, assigning the subscriber IP addresses that are simultaneously shared among many
13 users, and/or encrypting traffic.
14

15 25. A VPN subscriber accesses the VPN service from her normal Internet service so
16 that she is assigned an IP address from the VPN provider. If the VPN connection is temporarily
17 disconnected, the subscriber can lose the benefit of anonymity because the IP address of the
18 conventional ISP which is likely logged will be exposed.
19

20 26. Some VPN services include a so-called “Kill Switch” so that the subscriber device
21 is automatically disconnected from the Internet until the VPN connection is restored when the
22 VPN connection is temporarily disconnected.
23

24 27. VPN providers usually obtain their IP addresses, colocation and support from large
25 data center providers such as Datacamp Limited, Digital Ocean and Total Server Solutions, LLC.

26 28. Defendant used IP addresses that were assigned to a VPN service from data centers
27 such as 212.102.46.66 from Datacamp Limited and 198.8.80.88 from Total Server Solutions, LLC
28

as discussed below.

29. Public information shows that IP addresses 212.102.46.66 and 198.8.80.88 are associated with servers in Seattle, Washington.

GeolIP2 City Results

IP Address	Country Code	Location	Network	Postal Code	Approximate Coordinates*	Accuracy Radius (km)	ISP	Organization
198.8.80.88	US	Seattle, Washington, United States, North America	198.8.80.0/24	98168	47.4902, -122.3004	1000	Performive	Performive
212.102.46.66	US	Seattle, Washington, United States, North America	212.102.46.0/25	98121	47.6144, -122.3447	1000	Datacamp Limited	Datacamp Limited

30. Defendant frequently comments on articles using the Disqus platform under the username “lookinthemirrorloser” with a public display username “Harry S Cornhole” in the comment sections of the Portland, Oregon based online newspaper Willamette Week (<https://www.wweek.com/>) and the online publication TorrentFreak (<https://www.torrentfreak.com>).

31. Defendant registered for the username Harry S Cornhole using the email address “fbkf@sroff.com” on or about September 6, 2020.

32. Defendant chose an image of a Caucasian hand making the “ok” hand gesture as the icon representing her username.



33. The Anti-Defamation League states that the hand gesture chosen by Defendant as the icon for her username is a common expression indicating support for white supremacy. *See* <https://www.adl.org/education/references/hate-symbols/okay-hand-gesture> [last accessed on Feb. 26, 2021].

34. Upon information and belief, Defendant purposely chose this username and profile icon to show her disdain and racial animus towards an African American attorney named Kerry S. Culpepper who represents copyright holders.

35. On Feb. 2, 2021, Defendant used the Harry S Cornhole username to state “Kerry Culpepper the Hawaiian Negro...” from IP address 167.99.109.10 (of Digital Ocean).



36. On Jan. 27, 2021, Defendant used the Harry S Cornhole username to state, “Culpepper appears to be wanting an early funeral. Folks will murder for just about anything these days” from IP address 71.193.144.236 (of the ISP Comcast).

37. Defendant uses the Harry S Cornhole username to make comments criticizing the Black Lives Matter (“BLM”) movement and people of African descent in general.

38. On Sept. 6, 2020, Defendant used the Harry S Cornhole username to refer to people of the BLM as “A Potpourri of Scum” from IP address 45.43.14.76 (of the ISP Tier.Net Technologies LLC).



39. On that same day and from the same IP address, Defendant used the Harry S Cornhole username to state, “A normal person thinks homeless antifa and blm are all the same.

1 Gross!”.

2 40. On that same day and from the same IP address, Defendant used the Harry S
3 Cornhole username to state disdain towards the Portland, “Ya' Think? I moved far away from that
4 S Hole.”

5 41. On that same day and from the same IP address, Defendant used the Harry S
6 Cornhole username to state, “Bring your children with you downtown. When you start killing
7 those homeless, blm, and antifa losers, you will have a great excuse for why you did it. Truck will
8 become a lawnmower.”

9 42. On Sept. 22, 2020, Defendant used the Harry S Cornhole username to state “Blacks
10 have always been an interesting breed” from IP address 68.186.24.19 (of Charter).

11 43. Defendant uses the Harry S Cornhole username to make comments supporting
12 movie piracy and use of the YTS website.

13 44. In a comment on the TorrentFreak website, Defendant used the Harry S Cornhole
14 username to make comments, “itsfun2steal” and “Seedboxes are fine...” on Jan. 25, 2021 from IP
15 address 71.193.144.236 (of Comcast).

16 45. A seedbox is a high-bandwidth remote server for uploading and downloading of
17 digital files from peer-to-peer networks such as BitTorrent.

18 46. In a comment to a TorrentFreak article discussing litigation against the piracy
19 website 1337 and its users, Defendant used the Harry S Cornhole username to make a comment
20 bragging about her use of the 1337 website and the YTS website “safely” by using a VPN
21 “killswitch” on Jan. 27, 2021 from IP address 198.8.80.88 (of the ISP Performive and data center
22 Total Server Solutions, LLC). *See* <https://torrentfreak.com/movie-piracy-lawsuit-target-alleged-1337x-users-210126/> [last accessed on Feb. 26, 2021].
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Harry S Cornhole • a month ago

LOL! It's 2021... Who doesn't know how to do this stuff safely? get a vpn with a killswitch!

oh yeah, yify baaaaaby!

2 ^ | v • Reply • Share ›

47. In a comment to a torrent article discussing litigation against YTS users, Defendant used the Harry S Cornhole username to make a comment bragging about this use of the YTS website on Feb. 1, 2021 from IP address 167.99.109.10 (of Digital Ocean). See <https://torrentfreak.com/more-yts-users-settle-piracy-claims-after-legal-pressure/> [last accessed on Feb. 26, 2021].



Harry S Cornhole • 5 days ago

Is that the site i regularly use that always tells me to use a VPN? Yeah...

^ | v • Reply • Share ›

48. From many of the same IP addresses from which Defendant bragged that she used a VPN to regularly use or made racist comments, Defendant downloaded and shared copies of Plaintiffs' Work and those of affiliates of Plaintiffs.

49. Defendant commented from IP address 45.43.14.76 on 9/6/2020. For example, Defendant stated, "Bring your children with you downtown. When you start killing those homeless, blm, and antifa losers, you will have a great excuse for why you did it. Truck will become a lawnmower."

50. Defendant downloaded, reproduced and shared copies of the Work *Ava* under file name "Ava (2020) [1080p] [WEBRip] [5.1] [YTS.MX]" multiple times on 9/11/2020 from IP address 45.43.14.76. See Exhibit "1".

51. Defendant downloaded, reproduced and shared copies of the Work *The Murder Of Nicole Brown Simpson* under file name *The Murder Of Nicole Brown Simpson* (2019) [WEBRip]

1 [1080p] [YTS.LT] multiple times between 5/9/2020 and 6/17/2020 from IP address 45.43.14.76.
2 See Exhibit “1”.

3 52. Defendant downloaded, reproduced and shared copies of the motion picture *Wild*
4 *Horses* under file name Wild Horses (2015) [BluRay] [720p] [YTS.LT] multiple times between
5 6/3/2020 and 6/4/2020 from IP address 45.43.14.76. See Exhibit “1”.

6 53. Defendant commented from IP address 212.103.49.148 multiple times on
7 9/6/2020. For example, Defendant stated, “Every time these losers die to a bullet, the Taxpayer
8 saves money.”

9 54. Defendant downloaded, reproduced and shared copies of the motion picture *Wind*
10 *River* under file name Wind River (2017) [YTS.AG] multiple times on 11/1/2020 from IP address
11 212.103.49.148. See Exhibit “1”.

12 55. Defendant commented from IP address 192.111.134.213 on 9/9/2021. For
13 example, Defendant stated, “Anybody can murder another person at least once before getting
14 caught.”

15 56. Defendant downloaded, reproduced and shared copies of the Work *Ava* under file
16 names “Ava (2020) [1080p] [WEBRip] [5.1] [YTS.MX]” and “Ava (2020) [720p] [WEBRip]
17 [YTS.MX]” multiple times between 9/2/2020 and on 9/13/2020 from IP address 192.111.134.213.
18 See Exhibit “1”.

19 57. Defendant commented from IP address 198.8.80.88 on 1/27/2021. For example,
20 Defendant stated, “...oh yeah, yify baaaaaby!” YIFY is another name for the YTS website.

21 58. Defendant downloaded, reproduced and shared copies of the Work *Ava* under file
22 names “Ava (2020) [1080p] [WEBRip] [5.1] [YTS.MX]”, “Ava (2020) [720p] [BluRay]
23 [YTS.MX]”, and “Ava.2020.1080p.BluRay.H264.AAC-RARBG” multiple times between
24 25

1 11/13/2020 and 1/13/2021 from IP address 198.8.80.88. *See* Exhibit “1”.

2 59. Defendant commented from IP address 154.16.168.185 on 1/28/2021. For
3 example, Defendant stated, “Kerry is admitted to practice...”

4 60. Defendant downloaded, reproduced and shared copies of the Work *Ava* under file
5 names “Ava (2020) [1080p] [WEBRip] [5.1] [YTS.MX]” and “Ava (2020) [720p] [WEBRip]
6 [YTS.MX]” multiple times between 11/16/2020 and 1/13/2021 from IP address 154.16.168.185.
7
8 *See* Exhibit “1”.

9 61. Defendant commented from IP address 45.43.14.96 on 1/29/2021. For example,
10 Defendant stated, “No Bing. <https://gibiru.com/>” as her recommendation as an alternative search
11 engine to assist in pirating content since Bing was removing search results.
12

13 62. Defendant downloaded, reproduced and shared copies of the Work *Wind River*
14 under file name *Wind River* (2017) [1080p] [YTS.AG] multiple times on 1/26/2021 from IP
15 address 45.43.14.96. *See* Exhibit “1”.

16 63. Defendant commented from IP address 212.102.46.66 on 2/2/2021. For example,
17 Defendant stated, “When she gets hit by a bus, i’ll buy a round for the house!”
18

19 64. Defendant downloaded, reproduced and shared copies of the Work *Wind River*
20 under file name *Wind.River.2017.1080p.BluRay.H264.AAC-RARBG* multiple times on
21 1/22/2021-1/23/2021 from IP address 212.102.46.66. *See* Exhibit “1”.

22 65. Plaintiffs’ agent sent at least a first notice styled per 17 U.S.C. 512(a) of the Digital
23 Millennium Copyright Act (“infringement notice”) to the ISP associated with the IP addresses
24 used by Defendant requesting the ISP stop their subscriber (Defendant) from continuing to
25 infringe the Work via BitTorrent protocol.
26

27 66. Upon information and belief, the ISP forwarded the Notice to Defendant and
28

1 Defendant received it.

2 67. The ISPs such as Performive, Tier.Net, Charter and Comcast provided the Internet
3 service for Defendant at the time of the above comments. The data service providers such as
4 Digital Ocean provided the IP addresses the VPN provider provided to Defendant.

5 68. Because Defendant resides in a household with other adult individuals, Plaintiffs
6 were granted a third-party subpoena for a deposition on Defendant Michelle Derbyshire to
7 determine the true identity of the responsible party.
8

9 69. Plaintiffs served Michelle Derbyshire on 7/22/2021 to testify at the deposition
10 along with the witness fee.

11 70. Defendant did not attend the deposition and did not return the witness fee.
12

13 **IV. FACTUAL BACKGROUND**

14 ***A. The Plaintiffs Own the Copyrights to the Work***

15 71. The Plaintiffs are the owner of the copyright registrations for the screenplay
16 (PAu003943693) and the motion picture (PA0002235557) in the Work *Ava*.
17

18 72. The Work was published as a motion picture and is currently offered for sale in
19 commerce.

20 73. Defendant had notice of Plaintiffs' rights through at least the credits indicated in
21 the content of the motion picture which bore proper copyright notices.
22

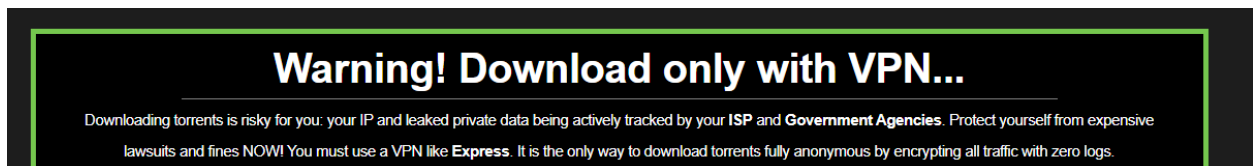
23 74. Defendant also had notice of Plaintiffs' rights through general publication and
24 advertising associated with the motion pictures, and packaging and copies, each of which bore a
25 proper copyright notice.

26 75. The YTS website provides torrent files, many including the name "YTS" in their
27 file names, that can be used by a BitTorrent protocol client application ("BitTorrent Client") to
28

download copyright protected content, including Plaintiffs' Work.

76. Defendant used the YTS website to download the torrent files associated with Plaintiffs' Work.

77. The YTS website displays, "WARNING! Download only with VPN..." and further information warning users that their IP address is being tracked by the ISP and encouraging them to protect themselves from expensive lawsuits by purchasing service from a VPN on its homepage. Upon information and belief, this warning has appeared on the YTS website since 2018.



B. Defendant Used BitTorrent To Infringe the Plaintiffs' Copyrights.

78. BitTorrent is one of the most common peer-to-peer file sharing protocols (in other words, set of computer rules) used for distributing large amounts of data.

79. The BitTorrent protocol's popularity stems from its ability to distribute a large file without creating a heavy load on the source computer and network. In short, to reduce the load on the source computer, rather than downloading a file from a single source computer (one computer directly connected to another), the BitTorrent protocol allows users to join a "swarm" of host computers to download and upload from each other simultaneously (one computer connected to numerous computers).

1. Defendant installed a BitTorrent Client onto her Computer.

80. A BitTorrent Client is a software program that implements the BitTorrent Protocol. There are numerous such software programs which can be directly downloaded from the Internet.

1 81. Once installed on a computer, the BitTorrent Client serves as the user's interface
2 during the process of uploading and downloading data using the BitTorrent protocol.

3 82. Defendant installed a BitTorrent Client onto her computer.

4 ***2. The Initial Seed, Torrent, Hash and Tracker***

5 83. A BitTorrent user that wants to upload the new file, known as an "initial seeder,"
6 starts by creating a "torrent" descriptor file using, for example, the Client she installed onto her
7 computer.

8 84. The initial user or seeder of a file used a process referred to as "ripping" to create
9 a copy of motion pictures from either Blu-ray or legal streaming services.

10 85. The initial seeder included the wording "YTS" in the title of the torrent files in
11 order to enhance a reputation for the quality of her torrent files and attract users to the YTS
12 website.

13 86. The Client takes the target computer file, the "initial seed," here the copyrighted
14 Work, and divides it into identically sized groups of bits known as "pieces."

15 87. The Client then gives each one of the computer file's pieces, in this case, pieces of
16 the copyrighted Work, a random and unique alphanumeric identifier known as a "hash" and
17 records these hash identifiers in the torrent file.

18 88. When another peer later receives a particular piece, the hash identifier for that
19 piece is compared to the hash identifier recorded in the torrent file for that piece to test that the
20 piece is error-free. In this way, the hash identifier works like an electronic fingerprint to identify
21 the source and origin of the piece and that the piece is authentic and uncorrupted.

22 89. Torrent files also have an "announce" section, which specifies the URL (Uniform
23 Resource Locator) of a "tracker," and an "info" section, containing (suggested) names for the
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1 files, their lengths, the piece length used, and the hash identifier for each piece, all of which are
2 used by Clients on peer computers to verify the integrity of the data they receive.

3 90. The “tracker” is a computer or set of computers that a torrent file specifies and to
4 which the torrent file provides peers with the URL address(es).

5 91. The tracker computer or computers direct a peer user’s computer to other peer
6 user’s computers that have particular pieces of the file, here the copyrighted Work, on them and
7 facilitates the exchange of data among the computers.

8 92. Depending on the BitTorrent Client, a tracker can either be a dedicated computer
9 (centralized tracking) or each peer can act as a tracker (decentralized tracking.)

10 **3. *Torrent Sites***

11 93. “Torrent sites” are websites that index torrent files that are currently being made
12 available for copying and distribution by people using the BitTorrent protocol. There are
13 numerous torrent websites including the YTS website.

14 94. Defendant went to torrent sites including the YTS website to upload and download
15 Plaintiffs’ copyrighted Work.

16 **4. *The Peer Identification***

17 95. The BitTorrent Client will assign an identification referred to as a Peer ID to the
18 computer so that it can share content (here the copyrighted Work) with other peers.

19 96. Upon information and belief, Defendant was assigned a Peer ID by their BitTorrent
20 client.

21 **5. *Uploading and Downloading a Work Through a BitTorrent Swarm***

22 97. Once the initial seeder has created a torrent and uploaded it onto one or more
23 torrent sites, then other peers begin to download and upload the computer file to which the torrent
24

1 is linked (here the copyrighted Work) using the BitTorrent protocol and BitTorrent Client that the
2 peers installed on their computers.

3 98. The BitTorrent protocol causes the initial seeder's computer to send different
4 pieces of the computer file, here the copyrighted Work, to the peers seeking to download the
5 computer file.
6

7 99. Once a peer receives a piece of the computer file, here a piece of the copyrighted
8 Work, it starts transmitting that piece to the other peers.

9 100. In this way, all of the peers and seeders are working together in what is called a
10 "swarm."
11

12 101. Here, Defendant participated in a swarm and directly interacted and communicated
13 with other members of that swarm through digital handshakes, the passing along of computer
14 instructions, uploading and downloading, and by other types of transmissions.

15 102. In this way, and by way of example only, one initial seeder can create a torrent that
16 breaks a movie up into hundreds or thousands of pieces saved in the form of a computer file, like
17 the Work here, upload the torrent onto a torrent site, and deliver a different piece of the
18 copyrighted Work to each of the peers. The recipient peers then automatically begin delivering
19 the piece they just received to the other peers in the same swarm.
20

21 103. Once a peer has downloaded the full file, the BitTorrent Client reassembles the
22 pieces and the peer is able to view the movie. Also, once a peer has downloaded the full file, that
23 peer becomes known as "an additional seed," because it continues to distribute the torrent file,
24 here the copyrighted Work.
25

26 ***6. The Plaintiffs' Computer Investigator Identified the Defendant's IP Addresses as***
27 ***Participants in Swarms That Were Distributing Plaintiffs' Copyrighted Work.***
28

1 104. The Plaintiffs retained Maverickeye UG (“MEU”) to identify the IP addresses that
2 are being used by those people that are using the BitTorrent protocol and the Internet to reproduce,
3 distribute, display or perform the Plaintiffs’ copyrighted Work.

4 105. MEU used forensic software to enable the scanning of peer-to-peer networks for
5 the presence of infringing transactions.
6

7 106. MEU extracted the resulting data emanating from the investigation, reviewed the
8 evidence logs, and isolated the transactions and the IP addresses associated therewith for the files
9 identified by the SHA-1 hash value of the Unique Hash Number.

10 107. The IP addresses, Unique Hash Numbers, and hit dates contained in Exhibit “1”
11 accurately reflect what is contained in the evidence logs.
12

13 108. The logged information in Exhibit “1” show that Defendant copied pieces of the
14 Plaintiffs’ copyrighted Works identified by the Unique Hash Numbers.

15 109. The Defendant’s computer used the identified IP addresses to connect to the
16 investigative server from a computer in this District in order to transmit a full copy, or a portion
17 thereof, of a digital media file identified by the Unique Hash Number.
18

19 110. MEU’s agent analyzed each BitTorrent “piece” of the Work *Ava* distributed by the
20 IP addresses listed on Exhibit “1” and verified that re-assemblage of the pieces using a BitTorrent
21 Client results in a fully playable digital motion picture of the Work.

22 111. MEU’s agent viewed the Work side-by-side with the digital media file that
23 correlates to the Unique Hash Number and determined that they were identical, strikingly similar
24 or substantially similar.
25

26 ***C. Defendant knew the Copyright Management Information included in the illegitimate***
27 ***file copies she distributed had been removed or altered without the authority of Plaintiffs***
28

1 112. A legitimate file copy of the Work includes copyright management information
2 indicating the title.

3 113. The initial seeder of the infringing file copies of Plaintiffs' Work added the word
4 "YTS" to the file titles to brand the quality of piracy files she released and attract further traffic
5 to the YTS website.
6

7 114. The word YTS is not included in the file title of legitimate copies or streams of the
8 Plaintiffs' Work. The initial seeders of the Work altered the title to falsely include the words
9 "YTS" as CMI.

10 115. The file copies Defendant distributed to other peers in the Swarm included this
11 altered CMI in the file title.
12

13 116. Defendant knew that the YTS website from which she obtained the torrent files
14 was distributing illegal copies of the Work.

15 117. Defendant knew that the file copies that she distributed to other peers in the Swarm
16 included the altered CMI without the authority of Plaintiffs.
17

18 118. Defendant knew that the CMI in the title she distributed to other peers in the Swarm
19 included the altered CMI without the authority of Plaintiffs.

20 119. Defendant knew that YTS was not a licensed distributor of Plaintiffs' Work.
21 Indeed, the YTS website includes a warning to this effect.

22 120. Defendant knew that the CMI that included YTS in the file names was false.

23 121. Defendant knew that the false or altered CMI in the titles would induce, enable,
24 facility or conceal infringements of the Work when they distributed the false CMI, altered CMI,
25 or the Work including the false or altered CMI.
26

27 122. Namely, Defendant knew that other recipients would see the file titles and use the
28

1 altered CMI to go to the website such as YTS from where the torrent files originated to obtained
2 unlicensed copies of the Work.

3 123. By providing the altered CMI to others via the VPN service, Defendant induced,
4 enabled, and facilitated further infringements of the Work.

5 ***D. Defendant has repeatedly admitted and even bragged of being a user of the YTS***
6 ***website.***
7

8 124. Defendant has made numerous comments on the Disqus platform admitting her
9 use of the YTS website.

10 125. Defendant has made numerous comments on the Disqus platform admitting that
11 she uses a VPN to conceal her piracy activities.

12 126. Defendant has made at least one comments on the Disqus platform admitting that
13 she uses a kill switch as a further protection to conceal her piracy activities.

14 127. MEU obtained capture records from the same IP addresses from where Defendant
15 made these comments showing substantial piracy of Plaintiffs' Work and those of others.
16

17 **VI. FIRST CLAIM FOR RELIEF**
18 **(Direct Copyright Infringement)**

19 128. Plaintiffs re-allege and incorporates by reference the allegations contained in each
20 of the foregoing paragraphs.
21

22 129. Plaintiffs are the copyright owners of the Work which each contains an original
23 work of authorship.

24 130. Defendant copied the constituent elements of the Work.

25 131. Defendant also publicly performed and displayed the copyright protected Work.

26 132. By participating in the BitTorrent swarms with others, Defendant distributed at
27 least a piece of the copyright protected Work to others.
28

1 133. Plaintiffs did not authorize, permit, or provide consent to Defendant to copy,
2 reproduce, redistribute, perform, or display its Work.

3 134. As a result of the foregoing, Defendant violated the Plaintiffs' exclusive rights to
4 reproduce the Work in copies, in violation of 17 U.S.C. §§ 106(1) and 501.

5 135. As a result of the foregoing, Defendant violated the Plaintiffs' exclusive rights to
6 distribute copies of the Work in copies, in violation of 17 U.S.C. §§ 106(3) and 501.

7 136. As a result of the foregoing, Defendant violated the Plaintiffs' exclusive rights to
8 perform the Work publicly, in violation of 17 U.S.C. §§ 106(4) and 501.

9 137. Defendant's infringements were committed "willfully" within the meaning of 17
10 U.S.C. § 504(c)(2).

11 138. The Plaintiffs have suffered damages that were proximately caused by Defendant's
12 copyright infringements including, but not limited to lost sales, price erosion, and a diminution of
13 the value of its copyright.

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16 **VIII. SECOND CLAIM FOR RELIEF**
17 **(Contributory Copyright Infringement based upon participation in the**
18 **BitTorrent Swarm)**

19 139. Plaintiffs re-allege and incorporate by reference the allegations contained in each
20 of the foregoing paragraphs.

21 140. By participating in the BitTorrent swarms with others, Defendant induced, caused
22 or materially contributed to the infringing conduct of others.

23 141. Plaintiffs did not authorize, permit, or provide consent to the Defendant inducing,
24 causing, or materially contributing to the infringing conduct of others.

25 142. Defendant knew or should have known that the other BitTorrent users in a swarm
26 with her were directly infringing the Plaintiffs' copyrighted Work by copying constituent
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1 elements of the registered Work that are original. Indeed, Defendant directly participated in and
2 therefore materially contributed to others' infringing activities.

3 143. The Defendant's infringements were committed "willfully" within the meaning of
4 17 U.S.C. § 504(c)(2).

5 144. By engaging in the contributory infringement alleged in this Complaint, the
6 Defendant deprived not only the producers of the Work from income that could have been derived
7 when the respective film was shown in public theaters and offered for sale or rental, but also all
8 persons involved in the production and marketing of this film, numerous owners of local theaters
9 and retail outlets and their employees, and, ultimately, the local economy. The Defendant's
10 misconduct therefore offends public policy.

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13 **VIII. THIRD CLAIM FOR RELIEF**
14 **(Digital Millennium Copyright Act Violations)**

15 145. Plaintiffs re-allege and incorporate by reference the allegations contained in each
16 of the foregoing paragraphs.

17 146. Defendant knowingly and with the intent to induce, enable, facilitate, or conceal
18 infringement of the copyright protected Work *Ava*, distributed copyright management information
19 ("CMI") that falsely included the wording "YTS" and "RARBG" in violation of 17 U.S.C. §
20 1202(a)(2).

21 147. Defendant, without the authority of Plaintiffs, or the law, distributed removed or
22 altered CMI knowing that the CMI had been removed or altered to include the wording "YTS"
23 and "RARBG" without the authority of the Plaintiffs and knowing, or having reasonable grounds
24 to know, that it will induce, enable, facilitate, or conceal infringement of copyright protected Work
25 *Ava* in violation of 17 U.S.C. § 1202(b)(2).
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150. Particularly, the Defendant distributed the file names that included CMI that had
been altered to include the wording “YTS” or “RARBG”.

14 152. Defendant's acts constitute violations under the Digital Millennium Copyright Act,
15 17 U.S.C. § 1202.

19 154. Plaintiffs are entitled to recover from Defendant the actual damages suffered by
20 Plaintiffs and any profits Defendant has obtained as a result of her wrongful acts that are not taken
21 into account in computing the actual damages. Plaintiffs are currently unable to ascertain the full
22 extent of the profits Defendant has realized by their violations of 17 U.S.C. § 1202.

26 156. Plaintiffs are further entitled to costs and reasonable attorneys' fees.

Culpepper IP, LLC
75-170 Hualalai Road, Suite B204
Kailua-Kona, HI
Telephone (808) 464-4047

1 WHEREFORE, the Plaintiffs respectfully requests that this Court:

2 (A) permanently enjoin Defendant from continuing to directly infringe and contribute to
3 infringement of the Plaintiffs' copyrighted Work;

4 (B) enter an order pursuant to 17 U.S.C. §512(j) and/or 28 U.S.C §1651(a) that any service
5 provider providing service for Defendant which she used to infringe Plaintiffs' Work immediately
6 cease said service;

7 (C) award the Plaintiffs actual damages and Defendant's profits in such amount as may be
8 found; alternatively, at Plaintiffs' election, for maximum statutory damages of \$150,000 pursuant
9 to 17 U.S.C. § 504-(a) and (c) against Defendant;

10 (D) award the Plaintiffs their actual damages from the DMCA violations and Defendant's
11 profits in such amount as may be found; or, in the alternative, at Plaintiffs' election, for maximum
12 statutory damages of \$25,000 for DMCA violations pursuant to 17 U.S.C. § 1203(c) for violations
13 of 17 U.S.C. § 1202 against Defendant;

14 (E) award the Plaintiffs their reasonable attorneys' fees and costs pursuant to 17 U.S.C. §
15 505 against Defendant; and

16 (G) grant the Plaintiffs any and all other and further relief that this Court deems just and
17 proper.

18 The Plaintiffs hereby demands a trial by jury on all issues properly triable by jury.

19 DATED: Kailua-Kona, Hawaii, December 9, 2021.

20 /s/ Joshua Lee

21 Joshua Lee, WSA No. 57358

22 CULPEPPER IP, LLC

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